



December 7, 1999

Ms. Janice Marie Wilson
Associate General Counsel
Texas Department of Transportation
125 East 11th Street
Austin, Texas 78701-2483

OR99-3531

Dear Ms. Wilson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 131137.

The Texas Department of Transportation (the “department”) received a request for information relating to a specific job posting. You state that you will release information responsive to the request including questions and answers relating to qualifications and experience. You claim that the remaining requested information is excepted from disclosure under section 552.122(b) of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of documents.¹

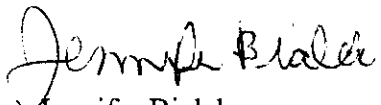
Section 552.122(b) excepts from disclosure test items developed by a licensing agency or governmental body. In Open Records Decision No. 626 (1994), this office determined that the term “test item” in section 552.122 includes any standard means by which the knowledge or ability of an individual or group in a particular area is evaluated, but does not encompass evaluations of an employee’s overall job performance or suitability. Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. Open Records Decision No. 626 at 6 (1994). Traditionally, this office has applied section 552.122 where release of “test items” might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976).

¹In reaching our conclusion here, we assume that the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

In this instance, you seek to withhold the screening instrument which contains knowledge, skill, and ability ("KSA") criteria used to grade the applicant in the screening process. You also seek to withhold job simulation exercises. You state that you do not ask to withhold the KSAs listed on the job vacancy notice, but rather ask to withhold the grading criteria for each KSA. We have considered your arguments and reviewed the submitted documents. The screening instrument, page one of Exhibit B, evaluates the applicant's suitability for the position and, therefore, is not a test item. With regard to the KSAs, we believe that items 1, 2, 4, and 6 are test items because they evaluate the applicant's knowledge in a particular area. However, the remaining items merely evaluate the applicant's suitability for the position and cannot be withheld as test items. The job simulation exercises, which contain objective questions that test an applicant's knowledge, constitute test items. Thus, you can withhold all ten of the job simulation exercises under section 522.122(b). Except for KSA items 1, 2, 4, and 6 and the job simulation exercises, you must release all of the requested information.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Jennifer Bialek
Assistant Attorney General
Open Records Division

JHB/cwt

Ref: ID# 131137

Encl. Submitted documents

cc: Ms. Dian S. Knox
16002 Kelli Drive
Channelview, Texas 77530
(w/o enclosures)